

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

No. CR 16-00440 WHA

v.

**ORDER RE TUESDAY'S
COMPETENCY HEARING**

YEVGENIY ALEKSANDROVICH
NIKULIN,

Defendant.

A criminal defendant has the right to be present at each stage of the proceedings. Defendant Yevgeniy Nikulin has already refused to appear in court once. A September 4 order subsequently granted defendant's motion for a hearing to determine his competency to stand trial. Defendant now refuses to cooperate in his competency evaluation (Dkt. Nos. 60, 63).


Defendant does not have a right to obstruct the orderly prosecution of this case. The undersigned hereby directs the United States Marshals Service to bring defendant to court on Tuesday, October 9 (forcibly or otherwise) unless defendant's counsel presents medical evidence beforehand that defendant's transport to the courthouse will endanger his health.

In similar circumstances, a defendant's refusal to attend proceedings has been deemed a voluntary waiver of his right to be present. *See, e.g., United States v. George*, 127 F.3d 1107 (9th Cir. 1997). Nevertheless, before resorting to waiver, the undersigned directs the Marshals

1 Service to bring defendant to court. Dr. Alexander Grinberg shall also personally appear at the
2 October 9 hearing.

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4 **IT IS SO ORDERED.**

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6 Dated: October 3, 2018.

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9 WILLIAM ALSUP
10 UNITED STATES DISTRICT JUDGE
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